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International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

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Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families

List of issues prior to submission of the second and third periodic reports of Senegal, to be submitted jointly*

The Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, at its fourteenth session (A/66/48, para. 26), established a procedure which consists in the preparation and adoption of a list of issues to be transmitted to the State party concerned prior to the submission of its report. The replies of the State party to this list of issues will constitute its report under article 73, paragraph 1, of the Convention. In accordance with General Assembly resolution 68/268, paragraph 16, the report should not exceed 21,200 words.

A list of issues may also be transmitted to a State party in cases where the Committee decides to examine the implementation of the Convention in the absence of a report, in accordance with rule 31 bis of the provisional rules of procedure (A/67/48, para. 26).

Part I

In this section, the State party is requested to submit its responses to the following questions.

A. General information

1. Please indicate what measures have been taken to create a reliable database, disaggregated by sex, age and origin, in order to make it possible to improve understanding of the migration context and the situation of migrant workers in Senegal, including those in an irregular situation, to monitor the implementation of each of the Convention rights and

* Adopted by the Committee at its twenty-second session (13–24 April 2015).

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to collect data on the effective exercise of each of those rights, as recommended by the Committee in its previous concluding observations (see CMW/C/SEN/CO/1, para. 12[1]).

2. Please provide information on the human and financial resources allocated to the Ministry of Foreign Affairs and Senegalese Abroad and the ways in which the government agencies that deal with migration coordinate with each other.

3. Insofar as the Senegalese Committee on Human Rights has seen its accreditation status downgraded from "A" to "B" based on the criteria set out in the Paris Principles, please provide information on what measures have been taken to enable the Senegalese Committee on Human Rights to regain its "A" status. Please also provide information on its mandate, its main activities and its human, technical and financial resources, especially with regard to issues concerning migrant workers. Please provide information on steps taken to inform the general public, and particularly all migrant workers, about the services provided by the Senegalese Committee on Human Rights.

4. Please provide information on cooperation between the State party and civil society organizations that are engaged in activities relating to the rights of migrants, in terms of the negotiation of bilateral agreements and the preparation of periodic reports by the State party, as recommended by the Committee in its previous concluding observations (paras. 20 and 25).

B. Information relating to the articles of the Convention

1. General principles

5. Please indicate whether the Convention has been directly applied by officials in the administration and/or invoked directly before the courts and whether the courts have applied the Convention; if so, please provide examples. Please also provide information on:

(a) The judicial and/or administrative mechanisms competent to examine and decide on complaints by migrant workers and members of their families, including migrant workers in an irregular situation;

(b) The complaints examined by such mechanisms since the date of entry into force of the Convention and their outcomes;

(c) The ability of migrant workers to obtain legal assistance in this context;

(d) Any redress, including compensation, provided to the victims of such violations;

(e) Any measures taken to inform migrant workers and members of their families about the remedies available to them when their rights have been violated.

2. Part II of the Convention

Article 7

6. The Committee has received reports that migrant workers from countries affected by the Ebola virus epidemic are subjected to discrimination and stigmatization, which affects, in particular, their rights to health, education, fairness in employment and housing, and that they are often the victims of harassment. The Committee has also received reports that children born in Senegal to parents who are foreign nationals encounter difficulty in

[1] Paragraph numbers in brackets refer to the Committee's previous concluding observations, issued as document CMW/C/SEN/CO/1.

obtaining Senegalese nationality, owing mainly to the cumbersome and lengthy procedure for obtaining nationality (naturalization). Please comment on these reports and indicate what measures have been taken to remedy these situations.

3. Part III of the Convention

Article 17

7. Please describe the types of penalties imposed on migrant workers for violations of immigration laws. Please also indicate the number of migrants, disaggregated by sex, age and nationality, who are currently being held in administrative or judicial detention for violations of immigration laws. Please provide information on the decisions taken in their cases, the places of detention where they are being held and the conditions in which they are being held. Please also indicate how long they are held in detention, on average, and whether or not the country's laws set out a maximum period during which such persons may be held in custody. Please also indicate whether migrant workers in an irregular situation are separated from convicted prisoners and persons being held in pretrial detention and whether the detention of migrant workers in an irregular situation is used only as a measure of last resort, as recommended by the Committee in its previous concluding observations (para. 15). The Committee has received reports that, in police stations, the administrative detention of foreigners awaiting deportation could be prolonged indefinitely because of administrative or logistical problems. Please comment on these reports.

Article 22

8. Please describe in detail the expulsion procedures that are implemented in the State party, including the relevant legal provisions, and specify whether any expulsion orders that have been issued have been accompanied by the necessary procedural safeguards. Please indicate, in particular, whether a migrant worker who has been served with an expulsion order can appeal and, if so, how; please also indicate whether such appeals have suspensive effect.

Article 23

9. Please provide detailed information on the consular services provided by the State party to Senegalese migrant workers living abroad, including those in an irregular situation, in particular those who have been deprived of their freedom and are subject to an expulsion order. Please indicate what measures are taken, in law and in practice, to ensure that the consular authorities visit them regularly and provide them with legal assistance with regard to expulsion measures, as recommended by the Committee in its previous concluding observations (para. 17).

Article 25

10. Please provide information on what steps have been taken or are planned to ensure that migrant workers employed in the informal sector and domestic workers are not exploited or subjected to abusive working conditions and that they are afforded the same treatment as nationals with regard to remuneration and working conditions.

Article 26

11. Please indicate what measures have been taken to amend legislation in order to allow migrant workers to obtain access to administrative and management positions in a trade union, including when their country of origin does not extend the same rights to Senegalese nationals, as recommended by the Committee in its previous concluding observations (para. 16).

Article 27

12. Please indicate what measures have been taken to ensure that no distinction is made between national and migrant workers in the formal sector in terms of the payment of retirement pensions, as recommended by the Committee in its previous concluding observations (para. 14). In addition, the Committee has been informed that there is no mechanism for the payment of social benefits to workers in the informal sector, many of whom are migrant workers, or to the families of Senegalese workers abroad. Please indicate what measures have been taken or are planned to ensure that persons working in the informal sector and the families of Senegalese emigrants have access to social benefits.

Article 28

13. Please describe the conditions under which migrant workers, including migrant workers in an irregular situation, can access health care and what type of care is available to them. Please indicate, in particular, what measures have been taken by the State party, in law and in practice, to ensure that all migrant workers and members of their families have access to basic health services, such as urgent medical care.

Article 30

14. Please provide information on the measures taken to ensure that the children of migrant workers have access to education, irrespective of their parents' migratory status. Please indicate whether schools are required to inform the authorities of a child's migratory status.

Article 33

15. Please indicate what measures have been taken to inform Senegalese emigrants and migrant workers in transit through or living in the State party, as well as members of their families, of their rights under the Convention, conditions of admission and their rights and obligations in the State of employment. Please also indicate whether the State party has set up any specific information and training programmes on the Convention for relevant public officials, such as police officers, embassy and consular staff, social workers, judges, prosecutors and other relevant public officials, as recommended by the Committee in its previous concluding observations (para. 13).

4. Part IV of the Convention

Article 41

16. Please indicate what steps have been taken to ensure that Senegalese migrant workers and members of their families have the right to vote and to be elected at elections held in the State party.

Article 47

17. Please indicate what measures have been adopted to facilitate the transfer of Senegalese migrant workers' earnings and savings to the State party, including any agreement to reduce the cost of these operations for migrant workers. In particular, please indicate what steps have been taken to help the recipients of these funds to gain the necessary capacity to invest them in sustainable income-generating activities and to promote and strengthen the involvement of the Senegalese diaspora in the country's development.

5. Part VI of the Convention

Article 64

18. Please indicate what measures have been adopted to ensure the protection of the rights of Senegalese migrant workers given the considerable number of Senegalese migrant workers being deported or expelled from Europe and some North African countries. Please indicate what steps the State party has taken to ensure that the memorandums of understanding and bilateral agreements with countries hosting Senegalese migrant workers guarantee sound, equitable and humane conditions for migrant workers, address the economic, social, cultural and other needs of migrant workers and members of their families and ensure respect for the rights set forth in the Convention. Please also provide information on any migration controls carried out by foreign authorities on the land and sea territory of Senegal in order to combat irregular migration from Senegal, indicating the legal basis of such controls, in particular the existence of bilateral agreements with the foreign authorities concerned and specifying whether, in law and in practice, such controls are carried out with due respect for the rights set forth in the Convention.

Article 65

19. Please provide information on the assistance provided by the State party to Senegalese migrant workers and the support provided by embassies and consulates in order to resolve their grievances. Please indicate the number of persons who have benefited from these services since 2010, the circumstances under which these services have been provided and any problems or obstacles that the State party has encountered in providing them.

Article 67

20. Please provide information on the number of Senegalese migrant workers who have returned to the country since 2010. Please indicate what measures have been adopted to ensure their orderly return, as recommended by the Committee in its previous concluding observations (para. 21), with a view to facilitating their durable economic, social and cultural reintegration, especially in respect of provisions for unaccompanied minors. Please also provide information on the number of Senegalese migrant workers in Libya who have requested repatriation or are awaiting repatriation to the State party and on the arrangements made for their return.

Article 68

21. Please describe the measures taken by the State party to effectively detect, prevent and eliminate illegal or clandestine movements and employment of migrant workers and members of their families, including women and unaccompanied minors. Please provide information on prevention campaigns developed by the State party with a view to combating the dissemination of misleading information relating to emigration and immigration, and on programmes aimed at raising awareness among its nationals, including children, of the dangers of irregular migration.

22. The Committee has received reports that nearly half of children who are forced to beg come from neighbouring countries, such as the Gambia, Guinea, Guinea-Bissau and Mali, and that most of them are talibés. The Committee has also received reports that: (a) migrant women and girls are forced into domestic servitude or are the victims of sexual exploitation, including for the purposes of sex tourism in the State party; (b) Senegalese women and girls are subjected to such treatment in foreign countries; and (c) Senegalese children are forced to work in gold mines abroad. Please indicate what measures have been adopted to resolve these issues and to prevent and combat the smuggling and trafficking of migrants, and describe the impact of those measures. In particular, please provide

information on the steps taken and planned to remove children who are forced to beg from the streets and to impose harsher penalties on the marabouts who exploit talibés for economic gain.

23. The Committee has learned that the 2005 Act on combating trafficking in persons and related practices and establishing protection for victims provides for the prosecution and conviction of any person over the age of 18 who knowingly participates in the commission of the offence of clandestine migration and has been invoked to prosecute Senegalese migrants attempting the crossing to Europe. Please indicate whether measures have been adopted to amend the Act to bring it into line with the Convention. Please provide detailed information on the cases in which persons have been convicted for these offences.

24. Please provide information on the steps taken to effectively apply the 2005 Act on combating trafficking in persons and related practices and establishing protection for victims, which includes a ban on the exploitation of begging by others. Please also indicate what steps have been taken to effectively apply the strategic plan (2008–2013) concerning the education and protection of children who beg or who do not attend school. The Committee has been informed of the existence of a national action plan to combat trafficking in persons, especially women and children (2008–2013) and the development, in June 2013, of a road map on eliminating the worst forms of child labour by 2016. Please describe the outcomes of that action plan and the road map. The Committee has also been informed of a delay in the allocation of human and financial resources to the National Unit to Combat Trafficking in Persons, especially Women and Children. Please provide information on the steps taken to remedy this situation. Please also indicate what measures are being considered for the systematic collection of data on trafficking in persons.

25. Please indicate what measures have been taken to increase the human and financial resources allocated to the Labour Inspectorate and to ensure that its staff receive appropriate training, including on the content of the Convention, as recommended by the Committee in its previous concluding observations (para. 22), so that the staff may properly monitor and investigate cases of trafficking in persons and related practices.

Article 69

26. Please indicate whether the State party has launched an information campaign on the procedure for migrant workers in an irregular situation to regularize their situation and whether it has set up an accessible and expeditious regularization procedure and a system to support migrant workers in an irregular situation throughout the process, as recommended by the Committee in its previous concluding observations (para. 23).

Part II

In this section the Committee invites the State party to briefly (in a maximum of three pages) provide additional information regarding the protection of all migrant workers and members of their families with respect to:

(a) Bills or laws and their respective regulations;

(b) Institutions (and their mandates) or institutional reforms;

(c) Policies, programmes and action plans relating to migration and their scope and financing;

(d) Recent ratifications of human rights instruments, specifically International Labour Organization (ILO) Migration for Employment Convention (Revised), 1949 (No.

97), ILO Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143) and ILO Domestic Workers Convention, 2011 (No. 189);

(e) Recent comprehensive studies on the situation of migrant workers.

Part III

Data, statistics and other information, if available

1. Please provide updated disaggregated statistical data for the last three years on:

(a) The volume and nature of migration flows into and from the State party since the entry into force of the Convention for the State party;

(b) Migrant workers in detention in the State party and migrant workers who are nationals of the State party and are detained in their country of employment, and whether such detention is immigration-related;

(c) Migrant workers and members of their families who have been expelled by the State party;

(d) The number of unaccompanied migrant children or migrant children separated from their parents in the State party;

(e) Remittances from migrant workers who are nationals of the State party and who work abroad;

(f) Reported cases of trafficking in and smuggling of migrants, investigations, prosecutions and sentences imposed on perpetrators (disaggregated by sex, age, nationality and purpose of trafficking or smuggling);

(g) Legal assistance services provided to migrant workers and members of their families in the State party and to nationals of the State party working abroad or in transit through third States.

2. Please provide additional information on any important developments and measures to implement the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families that the State party considers a priority, including any measures envisaged to make the declaration under article 76 of the Convention recognizing the competence of the Committee to receive and consider communications from States parties and/or the declaration under article 77 of the Convention recognizing the competence of the Committee to receive and consider individual communications.

3. Please also submit an updated core document in accordance with the harmonized guidelines on reporting under the international human rights treaties, including guidelines on a common core document and treaty-specific documents (HRI/MC/2006/3).

The Committee may take up any aspects of the rights of migrant workers and members of their families in the Convention during the dialogue with the State party.